

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:10-CR-28-BO

UNITED STATES OF AMERICA

v.

DAVID ANDREW KIRTON, JR.


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ORDER

Before the Court is defendant's *pro se* Motion for Compassionate Release under 18 U.S.C. § 3582(c)(1)(A). [DE 54]. The Court has learned that while this motion was pending, defendant was released from custody. *See* <https://www.bop.gov/inmateloc/> (last visited May 28, 2025). The Fourth Circuit has held that motions for compassionate release are moot when the movant has been released. *See United States v. Anderson*, No. 22-7300, 2023 WL 2625625, at *1 (4th Cir. Mar. 24, 2023); *United States v. Jackson*, No. 22-7140, 2023 U.S. App. LEXIS 19100, at *1 (4th Cir. July 26, 2023). Defendant's release from imprisonment thus precludes the Court from granting the relief sought in his motion—early release from imprisonment. The Court, therefore, DENIES Defendant's Motion for Compassionate Release [DE 54] WITHOUT PREJUDICE as MOOT.

To the extent Defendant's motion challenges his underlying conviction or sentence, his motion must be DENIED, as a collateral attack on a conviction or sentence must be brought pursuant to 28 U.S.C. § 2255. *United States v. Ferguson*, 55 F.4th 262, 270 (4th Cir. 2022). Defendant's motion to stay [DE 53] is also DENIED as MOOT.

SO ORDERED, this 28 day of May 2025.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE